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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

9 || HERBERT S. OLSON.

Petitioner.

11 | VS.

12 | WARDEN ISIDRO BACA, et al.,

13 || Respondents.

Case No. 3:14-cv-00424-HDM-WGC

ORDER

Petitioner has submitted a motion to dismiss petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, without prejudice (#4). Petitioner notes that his direct appeal from the judgment of conviction is still pending in the Nevada Supreme Court. Consequently, petitioner has not yet exhausted his available state court remedies. 28 U.S.C. § 2254(b). See also Sherwood v. Tomkins, 716 F.2d 632, 634 (9th Cir. 1983). The court will grant petitioner's motion. Petitioner at all times remains responsible for calculating the running of the federal limitation period and timely asserting claims. See 28 U.S.C. § 2244(d)(1).

IT IS THEREFORE ORDERED that petitioner's motion to dismiss (#4) is **GRANTED**.
This action is **DISMISSED** without prejudice. The clerk of the court shall enter judgment
accordingly.

DATED: September 23, 2014.

Howard & McFadden

HOWARD D. MCKIBBEN
United States District Judge